जी को भी गलत इंजेक्शन दिया गया है जिसका उनको रिएक्शन हो गया है । मेरा यह कहना है कि इस तरह की असावधानी क्यों बरती गयी है इसका पता लगाया जाये । (व्यवधान)

श्री अटल बिहारी वाजपेयी (मध्य प्रदेश) : मुझे भी टेलीफोन आया है, मैं चाहूंगा इसका पता लगाया जाये ।

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): Shri Ram Awadesh Singh is also in the same condition. He is in hospital.

SHRI GHULAM RASOOL MATTO (Jammu and Kashmir): Madam, I also got a telephone call from somebody that Shri Ram Awadesh Singh has developed reaction to an injection and he has been admitted to Ram Manohar Lohia Hospital.

SHRI M. S. GURUPADASWAMY (Karnataka): Government should make an enquiry into it. I am just suggesting that an enquiry should be made. A wrong drug has been administered to Shri Ram Awadesh Singh.

THE DEPUTY CHAIRMAN: The Minister of Parliamentary Affairs should get in touch with the Health Ministry and find out what the position is. They should take immediate actoin on this.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): Yes, Madam.

SHORT DURATION DISCUSSION ON REPORT OF THE JOINT PARLIAMENTARY COMMITTEE ON BOFORS CONTRACT— *Contd.*

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM): Madam, hon. Members from both sides have covered a very wide ground in discussing the JPC Report. I do not wish to traverse the same ground because the Defence Minister, who will be replying to the debate, will give a very comprehensive answer, as he did in the other House, to the allegations, charges and, if I may say so, even insinuations and innuendos thrown against the Government by certain hon. Members during the course of their speeches. Madam, I wish to deal only with a few aspects of the Bofors issue. Firstly, Madam, kindly go back to the charge which was first made public. The charge which was first made public was that senior Indian politicians and key Defence Ministry officials were paid bribes for winning this contract. That is where we started, and after one year no one has been able to name any Indian politician or Minister or Indian official who has received a bribe. In fact, I found that while they were willing to wound, they were afraid to strike. So far so good. At least in the last one year we could clear one thing. Despite newspapers, correspondence investigative journalists, self-styled sleuths, attempts by Parliament Members, visits abroad by former Members of Parliament and a whole lot of people, there is no evidence that any Indian Government official or any Indian Minister or any Indian politician has received a bribe in connection with the Bofors deal.

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): That shows your efficiency.

SHRI P. CHIDAMBARAM: That shows, Madam, that however much you might wish, if wishes were horses, the Opposition here would be riding. Unfortunately, after thirteen months not one piece of evidence has come against an Indian official, an Indian Minister, an Indian politician. So, we must know where we stand today with regard to the original charge aired by the Swedish Radio.

SHRI M. S. GURUPADASWAMY (Karnataka): You are an ostrich. You can't see anything.

SHRI DIPEN GHOSH (West Bengal): See no evil hear no evil!

SHRI P. CHIDAMBARAM: Madam, if the honourable Members have finished chanting these mantras, may I continue with my speech? Occasionally they have to convert themselves into priests and utter these mantras from time to time. It is their privilege to do that.

PROF. C. LAKSHMANNA (Andhra Pradesh) : It is not our privilege alone. Mantras you have in abundance.

SHRI P. CHIDAMBARAM: What has been brought out in the report and what is the evidence on the record? The first question is, was it a bad gun? The second question is, did we pay a bad price? I do not want to cover the ground again. It is conclusively established that this is not a bad gun. On the contrary, it was the best gun which was available.

Let me quickly run through the highlights: There were field trials between January-July 1978 and March 1980 to April 1982. In December 1982 there was a General Staff Evaluation prepared by the Army Headquarters. The parameters laid down were best technology, high rate of fire including burst-fire capability, long range a fair degree of automation and capability of firing various types of ammunition. On this, Madam, there is not any dispute and Government does not dispute it that on the 24th of August 1984 the Army Headquarters gave their final assessment, placing the Frech gun at No. 1 position and the Swedish gun at the No. 2 position. This was reiterated in February 1985, this was reiterated on 19th March 1985. Now what were the advantages of the French gun? The advantages of the French gun were range, traverse and size. The advantage of the Swedish gun was the rate of burst-fire. The two guns were the same in sighting systems, APU and ground clearance. Now an innuendo, an insinuation has been made, that because certain things happened at a point of time because the Prime Minister took over the defence portfolio, and after Gen. Sundarji became the Chief of Army Staff, the priorities were reversed. What does the record show? The record shows that the Chief of Army Staff, Gen. Sundarji made a conscious decision and said, "While I preferred the French gun to the Swedish gun, now for the following reasons I prefer the Swedish gun to the French gun." No one has spoken about those reasons. No one is willing to critically examine those reasons. No one has brought any evidence, any argument to show that these reasons are bad. You would rather pillory and malign the person without looking into the arguments and reasons he has given for reversing the order of priority and placing the Swedish gun at number one position and the French gun at number two position.

Let me, Madam, for the record; recount the reasons. Firstly, he said, the French gun was placed first when we were evaluating the towed gun and the self-propelled gun as a package, but that over a period of time we gave up the idea of a self-propelled gun and we went in for only a towed gun. Once the package was broken, and it was no longer necessary to evaluate a gun both from the point of view of a towed gun and a self-propelled gun, then, the choice; the preference for the French gun as a package disappeared.

Secondly, in 1982, there was no radar capability, and it was expected that such a capability would be available around 2000 AD. Technology does not wait for us to take decisions. In February, 1986 the ANTPS fire-finder radar had been developed and was made available as a part of an aid package to Pakistan. The radar could, based on tracking in flight successive readings in space and computerised calculations, give a very highly accurate location of the gun within 45 to 50 seconds. This is something which we must try to understand even if we are laymen. What is the use of a gun which is not a self-propelled gun which is a towed gun

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whose location can be fixed by the enemy radar within 45 to 50 seconds. Once the radar is in position, then, what becomes important is the burst fire capability as well as the shoot and scoot capability. This factor became the most crucial factor, and Gen. Sundarji clearly says, "While we laid down the parameters, not all the parameters can be given equal weightage." From 1982 to 1984, certain parameters were given certain weightage and certain other parameters were given a lesser weightage. But in 1986 we were not evaluating any package, but we were evaluating only the towed gun. When we found that the enemy had a radar and it had been made available to it as part of an aid package and that that radar could detect our gun within 45 to 50 seconds, the weightage given to one parameter comes down and the weightage given to other parameters goes up.

On these two considerations, Gen. Sundarji says, "I preferred the Swedish gun and placed it at number one position" who has challenged this finding? What is the evidence that has been brought before this House, before the people of this country to say that the Chief of Army Staff and his people are not competent to reach the conclusion? Madam, I would any day place my faih in our army officers and army Chiefs if they make a judgement. They are the people who are going to fight. They are the people who will go into the battle field. They are the people who are going to use the guns. If the Chief of Army Staff, against whom not one of you is willing to make a direct charge, goes before the Committee and says, "I took the decision on my responsibility and I stand by my decision," I cannot see how the Opposition which believes in evidence, which believes in hard facts, can say that this decison was bad.

Madam, then, the question of price. Did we pay a bad price or did we pay a good price? Was it a good price from our point of view? Madam, the facts are clear. There are three crucial dates and three values of the offers of Bofors and Sofma. On 10th February 1986 the value of Bofors is Rs. 1,619 crores, and of Sofma Rs. 1,509 crores. On 11th March 1986, Bofors was Rs. 1,440 crores and Sofma Rs. 1,538 crores. On 21st March 1986, Bofors was Rs. 1,422 crores and Sofma was Rs. 1,438 crores. I will come to the final value a little later. What does this mean? This means that between the 10th of February, 1986 and the 21st of March, 1986 prices tumbled. The prices tumbled not only in the case of the Bofors guns, but they tumbled also in the case of the Sofma gun. In the case of Bofors the reduction was approximately Rs. 197 crores in the case of Sofma, the reduction was approximately Rs. 70 crores Now, how can this happen? You must ask what happened to the final rock-bottom French offer. I will come to it a little later. If within a period of five weeks we have driven Bofors to reduce it's price by Rs. 197 crores and during the same period the Sofma offer was reduced by Rs. 70 crores, does it not show that the negotiating Committee drove a very hard bargain? Does it not show that the attempt, the sole objective and the sole goal was to reach a rock-bottom price? If there was any mala-fides, if there was any underhand deal, if there was an attempt to receive a bribe, if there was an attempt to put away money, why should there be an attempt by us to drive down the prices of both the guns? On the contrary, the attempt must be to ensure that the two offerers maintain the high price and try to get the best illegal and illegitimate bargain out of the two offerers. The very fact that for five weeks we drove a very hard bargain, and the result of the bargain is visible in that we have driven down the price by Rs. 197 crores in the case of Bofors and Rs. 70 crores in the case of Sofma, puts paid to all pretensions and all arguments that there was anything mala-fide in this negotiation

Then we tried to adjust the prices for the number of free guns that were offered. There was variation between the number of free guns offered. Finally I believe that something like ten guns were offered free over the paid guns, but the final position is that Bofors offer was Rs. 1,427 crores and the Sofma offer was Rs. 1,436 crores.

This offer of Rs. 1,436.76 crores is significant. Hon. Members know that the letter of intent was issued on 14th of March, 1986. The files were signed on 13th March, 1986. I will come to that in a moment The letter of intent is more or less an agreement, although it has to be followed by a contract. But the other contenders know that Bofors has an inside track, because it has got a letter of intent. It has scored over everybody else in the final stage of evaluation. The only thing that stands between a letter of intent and frustration of that deal is non-signing the contract. The only act that has to be done to fulfil the letter of intent is to sign the contract. It is at that stage that the Sofma offerer gets into the act. What does he do? He reduces the price further. He sweetens the package and says that "my rock-bottom price is Rs. 1,436.76 crores." This is the bench-mark, a bench-mark which unfortunately, the Opposition wants to ignore a bench-mark which you cannot ignore and which has to be placed before the people of this country. This is the rock-bottom which the French said they were willing to accept—Rs. 1,436.76 crores. The French are not fools. If Rs. 1,436.76 crores is the rock-bottom and you can build into it what you say was a Rs. 64 crore bribe, if the French were anxious to get this deal, they could have reduced this offer. The French are hard bargainers. The French have done business in the world for several years. The French have done business with us. If a Rs. 1,436 crore package provides a cushion of Rs. 64 crore bribe, would not the French have reduced the Rs. 1,436 crores by a further Rs. 64 crores and offered something like Rs. 1,370 crores, knowing very well that the Bofors offer on which the letter of intent was issued was approximately Rs. 1427 crores. The problem with us is that we think the whole world is full of fools and we are the only intelligent people. Everybody in this world has got commercial intelligence. He has got a commercial interest. He knows how to do business. He knows how to do business in hundreds of countries. He knows how to to drive a bargain. The rock bottom price of the French offer of Sofma of Rs. 1,436.76 crores, and against that bench-mark when you measure the Bofors offer of Rs. 1,427.02 crores, if I was a buyer I would say, well, Bofors apparently is willing to give up even any pretence of a profit. They are willing to go below what the French, their nearest competitor will offer as a rock bottom price. Where is the cushion in this kind of money? If there is going to be a bribe—if they are going to do something out of their profits—that is a different matter. We will come to that in a moment. If there is going to be a bribe where is the cushion for a bribe of this kind of amount? If we do not know the fact that the Sofma rock bottom offer was Rs. 1,436 crores, then, you can make any kind of allegations. But you should keep in mind the fact that the competing offer at the rock bottom level was only Rs. 1,436 crores. There is no argument that the Bofors offer was the best offer and we paid the best price—an outstanding price from our point of view. As Bofors have said, we paid a price less than what the Swedish Army has paid.

Madam, now I come to the infererces to be drawn. Do we have a good gun? Yes. Do we have a good price? Yes. Madam, if you have a good gun and if you pay a good price, where is the question of a bribe? To get a bribe, to pay a bribe or to win a bribe, you must either have a bad gun and pay a high price or you must have a good gun and pay a bad price.

SHRI M. S. GURUPADASWAMY: Madam, just for a minute, I would like the Minister to turn to page 87 because he has been harping upon the price mentioned in 1981. I would like him to read page 87, para 2. I will read it. I quote:

> "If one were to view the discounted present values (i.e., considering credit terms, repayment schedules covering 15 years, etc) the Bofors figures would be slightly higher."

In spite of all this...

SHRI P. CHIDAMBARAM: Madam, I do not want to labour this point but since the point has been raised I think, it is worthwhile to refer to the correct paragraph. If the hon. Member will kindly look at page 101, para 6.66 it says, I quote:

> "The Committee further observed that on the date the Negotiating Committee made their recommendation, the offer of Bofors was cheaper than the offer of M/s. Sofma by about Rs. 97 crores. The French firm offered their final rock bottom price of Rs. 1,436.76 crores on 21-3-1986 which involved a reduction of Rs. 101.35 crores over their previous offer made on 11-3-1986. This price could be considered the floor price for the French system because the letter of intent had already been placed on Bofors and the imminent danger of losing the contract would have prevented the French from keeping any margin in reserve. Even with such a large reduction that is offered Rs. 101 crores, Sofma could not match the final offer of Bofors. On 21-3-1986 the final offer of Bofors was Rs. 1,427.02 crores as compared to Sofma's offer of Rs. 1,436.76 crores."

These are the very figures that I gave during the course of my speech. Madam, I go back to my deductions. I believe that either you must have a good gun and pay a bad price, from our point of view, to provide for the bribe, or you must go for a bad gun and pay what you think is a good price. If the gun is anyway a bad gun he is selling you some junk and there is a provision for cushion from which money can be paid by legitimate means. If it is a good gun and if it is a good price—if it is the best gun that is available to you and if it is the best price which the nation could have paid—where is the question of bribe? I think, Madam, while we are speaking in Parliament, no doubt, but we are speaking through Parliament to the people of this country and I am always conscious that while we speak in this august Chamber we also speak to the people of this country. We should not tell the people things which are plainly wrong, things which are plainly contrary to the truth. We must tell the people of this country that we have got the best available gun of the kind that we wanted, which has been evaluated any number of times, on which certificates have been given by any number of experts including, I believe, General Aurora, General Manekshaw and a whole galaxy of distinguished Generals. We have got the best gun. We must also tell the people of this country that we have paid the best price. We have paid the price which is less than what the Swedish army paid. We have paid the price by driving a very hard bargain. We have paid a price by reducing the price within the space of five weeks by Rs. 197 crores. We have paid the price which is less than what is described as rock bottom final price offered by the French manufacturers and we have got the best gun and we have paid the best price. I have no doubt in my mind. Whatever the Members of the Opposition will say, no right thinking person in this country will ever believe this preposterous charge that anybody took a bribe in this deal. I have no doubt about convincing the people of this country on the truth of our position.

Madam, we finally come to the documents. Now these are the documents which are being put against us, and it is being said that there was a breach of faith by Bofors and as a result of that, we must now take some action. Madam, let us look at this question of breach of faith. I do not wish to put forward any defence for Bofors. But the argument of breach of faith by Bofors implies that either there was carelessness or criminal negligence on the Indian side which I cannot accept. Having gone through the record, having gone through the sequence of events, having gone through the tortuous process of negotiations, having gone through the fact that they drove a hard bargain, and the sound solid work done by the evaluation Committee as well as the price negotiating Committee, it is not possible for me to accept the argument that it was there carelessness or criminal negligence on the part of anyone on the Indian side.

Madam, it is now claimed that there were three agreements with three parties. I will call them party A, party B and party C. We all know the names but many of them are unpronounceable. Party A had an agreement with Bofors in 1978. Party B had an agreement with Bofors in 1979 and party C had an agreement with Bofors in 1985. I could very easily point out to you what was the nature of these agreements but I will merely refer to the pages. The nature of these agreements is there at page 148 of the book. I do not want to take time to describe them. That is Bofors' version. That is why they entered into an agreement. When the conditionality was imposed that there shall be no middleman, it is quite clear that at least party A and party B had subsisting agreements and perhaps party C also had a subsisting agreement. We are not sure about the date. But what is good for one is good for the other. Let me take the agreement of party A and party B and I assume, the argument will apply to party C. The options open to Bofors have been described by the Bofors representative at page 151. There are three options and I will refer to para 7.118 at page 151. They could either disregard such demands for no middleman or cancel the contract through court proceedings or do so by negotiations with the parties concerned. When we made a demand that there shall be no middleman, thye could have said, forget it, we are not going to listen to you or they could have gone to court and tried to get the contract cancelled or they could have negotiated with party A and party B and tried to reach an amicable settlement. Hon. Members who are aware of the law of contract will agree with me when I say what I am going to say: if there is a subsisting contract and then there is a supervening event which requires me to terminate that contract, one way of terminating the contract is to enter into another agreement which will terminate the earlier agreement. This is the principle of novation. One agreement replaces the earlier agreement. What has Bofors done? From the published documents, please find out what Bofors has done. A termination agreement has been published in one of the newspapers. That termination agreement is dated 27th December 1985, full three months before the letter of intent was issued. This, I believe, Madam, is a vital document and if other termination agreements are similar to this document, I want the hon. House and the people and all other right-thinking people to consider the implications of this. It is dated 27th December 1985, well before the letter of intent was issued. They are, therefore, acting at a point of time when maybe they will get the contract, maybe they will not get the contract. Yet as prudent businessmen they are trying to fulfil a condition precedent by which alone they will get the contract. Bofors issued a

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letter to the Government of India on the 10th March 1986 saying that they have fulfilled the conditionality and that they have eliminated all middlemen. On 14th March, the letter of intent was issued; on 24th March, the contract was concluded. I try to put myself in the position of Bofors. I am bidding for a contract worth Rs. 1400 odd crores. The Government of India has imposed a condition to terminate all middlemen. I have three choices, to ignore it, to go to court or to do it by negotiations. As a prudent businessman, I have taken to the third course. I want to read this agreement of 27th December 1985. It says:

> "This settlement agreement is entered into by and between Bofors and Moineao.
>
> Bofors is a Swedish Corporation which manufactures and sells ordnance materials in Sweden and abroad.
>
> Moineao is a strategic consultant etc. etc.
>
> Before decided to cancel the earlier agreement between the parties. As they had no legal means to cancel the agreement, the parties, after lengthy discussions and in order to avoid legal proceedings, have made the following settlement concerning the differences of opinion."

Maybe it is a translation. I do not know. Maybe it is in English:

> "(1) Moineao has accepted the cancellation of the contract which is a pre-existing contract as of December 31, 1985.
>
> (2) Bofors has agreed to pay a cancellation fee of 80 million SEK to be paid in instalments during 1986.
>
> (3) If Bofors has not made the above agreed payments...."

I think, to be correct English, it should be 'If Bofors will not make the agreed payments'.

> "...before the end of 1988, the agreement will again come into force as of January 1, 1987.
>
> (4) Upon fulfilment of the above mentioned payments, the parties have no further claims and liabilities *vis-a-vis* each other as a result of the abovementioned earlier agreement."

Madam, we have to read a document as it is and try to understand the implications of the document. There is an earlier agreement of 1978 or 1979. I think it is 1979 in the case of Moineao which bound Bofors and Moineao in some manner. As far as India is concerned, as far as Howitzer deal is concerned, where were we in 1979? In 1979, we had only a recommendation of the Expert Committee under Ltd. General Krishna Rao which recommended a definite requirement of a gun of 155 mm. It is only in October 1979 that the Army Headquarters prepared the philosophy paper. In 1979, we were nowhere near even the philosophy paper. In 1979, Monieao entered into an agreement with Bofors. Six years later, on 27th December 1985, as a prudent businessman, Bofors, in order to fulfil the conditionality, entered into a termination agreement. This is the new contract. This contract under the principle of novation has substituted the earlier contract. This contract says, "I will pay you 80 million SEK in instalments during 1986". After this contract, on the 10th March Bofors writes to the Government of India saying we have no middlemen. On 14th March they get the letter of intent. On 24th March they conclude the contract and they pay the instalments in 1986 pursuant to this contract. Madam, I think some Members fell into the rather facile assumption that the payments made by Bofors to Moineao which, I think,

are SEK 80 million or SEK 81 million, were post-contractual payments. Fine. But which contract? Post-contractual. Post-which contract? Not post-contract dated 24th March 1986 between Government of India and Bofors. It is post-contractual in the sense that it is post-contractual to the 27th December 1985 contract between Bofors and Moineao by which a novation has taken place and an old agreement has been terminated. This agreement is enforceable. What is an agreement? An agreement can be entered into orally or in writing. A contract is an agreement enforceable in law. That is the universal definition of a contract. Any agreement enforceable in law is a contract. Here is an agreement... (*Interruption*) it is a novation. It replaced the earlier contract which requires you to pay SEK 80 or 81 million. SEK 80 or 81 million are paid pursuant to the 27th December 1985 contract. Unfortunately we have fallen into a facile assumption that the payment of SEK 80 million was pursuant to the contract of 24th March 1986 between Bofors and India. Where is the breach of faith here? Here is a businessman who is fulfilling a conditionality imposed by the Government of India, takes a risk, terminates an earlier agreement, pays the price for termination, nodifies it by saying "no middlemen", and wins the contract and pursuant to the termination settlement he is paying SEK 80 million. Where is the breach of faith? Where has he tried to mislead us? Where is negligence on the Indian side? Where is carelessness on the Indian side? It is not fair of anyone on that side to say that officers of the Government of India representing the Ministry of Finance, representing the Ministry of Defence, by implication, were either careless of negligent in not providing a clause. The Attorney-General categorically stated the legal position. This is a condition precedent to the contract, a condition precedent need not be made a clause of the contract because the whole contract stands on the foundation of the condition precedent. If the condition precedent were not there or if the condition precedent had not been fulfilled, the contract would have been frustrated. Here is Bofors, as a prudent businessman, he has terminated the earlier agreement, is attempting to fulfil the conditionality, pursuant to that conditionality being fulfilled, he has paid SEK 80 million; he has paid it from out of his profits (*Interruptions*) I will assume that the other two documents which have not seen the light of day—I am sure the enterprising journalist who was able to find this document will also do the favour of publishing the other two termination agreements in respect of the AE Services and....

SHRI ATAL BIHARI VAJPAYEE (Madhya Pradesh): Can you not find it out?

SHRI P. CHIDAMBARAM: I am sure you can find it. When you could find one, you could find the others too...

SHRI PARVATHANENI UPENDRA: What for are you there then?

SHRI P. CHIDAMBARAM: The point is: What is there in this agreement which damns the Government which maligns the Government? What is there which proves your case? This agreement is an open agreement. It is a terminaion of the earlier agreement ...

SHRI M. S. GURUPADASWAMY: All that is engineered like that.

SHRI P. CHIDAMBARAM: You must tell your friends who publishe this document that this is an engine ered document. Your case rests.. (*Interruption*)

SHRI DIPEN GHOSH: Are you a advocate of Bofors?

SHRI P. CHIDAMBARAM: I an not an advocate for Bofors. But am certainly an advocate for India; am an advocate for the people o

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India; I am an advocate for the Government of India; I am an advocate for the Army of India; I am an advocate for the Chief of Army Staff, I am an advocate for the hundreds and thousands of jawans who have to defend us; I am an adovate for the defence of India, I am an advocate for the integrity of India; I am an advocate for the 80 crores of people. You stand here throwing all kinds of allegations and insinuations without looking at the documents. You are not looking into the documents. Where is the breash of faith? Where is the carelessness on the side of India? Where is the negligence on the Indian side... (*Interruptions*)...

SHRI DIPEN GHOSH: You ask your friend.... (*Interruptions*) ....

SHRI P. CHIDAMBARAM: You are my friend as much as he is . . . (*Interruptions*)

SHRI DIPEN GHOSH: You ask your friend; he still belongs to your party. (*Interruptions*)

SHRI P. CHIDAMBARAM: Madam, it is easy to fall into the facile assumption that there has been a breach of faith and it is easy to fall into the facile assumption that there has been carelessness or negligence. Madam, I submit, there has been no carelessness, there has been no negligence. On the contrary, our negotiators have driven a hard bargain after having negotiated for years and the conditionality has been fulfilled. If Bofors had paid money pursuant to what they under the Swedish law feel is valid and under the legal termination settlements dated the 27th December 1985 or similar deals with parties A, B and C, and out of their profits, through the normal banking channels, into accounts numbered or unnumbered, it does not create a trace of suspicion against any Indian Minister or any Indian official or any Indian Defence official, as was the original allegation made by the Swedish Radio. After all, where did you start your case and where are you now? You thought you were starting with a bang and, today, you are ending in a whimper. You have not proved anything against anyone in the Government of India.

Madam, there are some other documents which have been published and I do not want to take the time of the House analysing those documents. Those documents, many of them or all of them, are of1978 and 1979, and some of them have been characterised as false or fabricated. It is none of our business to comment on those documents. Those documents do not establish anything in connection with the Bofors agreement.

Madam, what we have got is a good gun, what we have got is a good price and what we have got is something which the Army needs and deserves. We imposed a condition and, by and large, that condition was fulfilled. There might have been attempts—we do not know the Swedish law—there might have been some compulsions under the Swedish law, to fulfil the conditionality by entering into agreements. Once an agreement is signed, that appears to me to be a valid agreement and if payments are made under that agreement, I cannot see how that can be termed as a breach of faith by Bofors *vis-a-vis* the Indian side, implying thereby either carelessness or negligence on the part of anyone on the Indian side.

I believe, Madam, we are doing a disservice to the country by describing this deal as something in which there has been some error or some kind of criminal negligence. This deal is the best deal which we have been able to work out through hard negotiations for several years and I think all these attempts are not to secure the interests of the country but all these attempts are part of an effort to malign the Government. But the people of this country will, no

doubt, see these attempts as crude and clumsy attempts to malign the Government in a matter of great importance to the defence of this country. Thank you Madam.

THE DEPUTY CHAIRMAN: Now, the honourable Minister, Mr. K. C. Pant.

THE MINISTER OF DEFENCE (SHRI K. C. PANT): Madam, we have had a long debate and we were here till well past midnight yesterday. And, Madam, the more sensible Members had gone home, but the more conscientious had remained here.

Madam, after years I had the pleasure of listening to my friend, Shri Atal Bihari Vajpayee and it is always a pleasure to listen to him. This matter has been gone into now in several debates in this House and I think, on this occasion, it has been gone into in great detail by both the sides of the House. I would like to thank the speakers on both the sides for the study and the obvious efforts which they had brought to bear on the subject which requires the application of mind because this is not one of those subjects on which one can speak without applying one's mind, without taking a lot of trouble and I would thank them all for making suggestions.

Madam, the debate has been an orderly one. And that has enhanced the utility of the debate. There have been a few interruptions. There has been a regular flow of arguments. And all this has helped in bringing out not only the compexities of the subject but also in throwing up some suggestions. As always, the Government considers the suggestions that emerge from debate in the House.

Madam, the facts are by now very well known. Normally I would have preferred not to go into these facts. But what we are considering here is the report of the Joint Parliamentary Committee. I am sorry that some friends have made very unwarranted remarks against the Chairman and other members of that Committee, against its functioning, and so on. Therefore, it is necessary for me to try to present the report and its conclusions in the light of the facts as I see them, and I hope that the House will bear with me in this matter.

The crux of the whole thing is whether the Government has energetically followed up the various leads as they have come up, whether it has sought the truth or it has dragged its feet. This seems to be the gravamen of the charge the Opposition is making against the Government. My suggestion is that the Government has not only been energetic but all along the Government has taken the initiative in trying to get at the facts and bring the whole thing into the light of the day. And in this respect I can do no better than to come back to the beginning of this whole matter.

The whole matter began a year ago when the Swedish Radio made its broadcast and the Swedish Radio made some allegations with regard to payments, payments for the 155 mm. Howitzer gun, which India purchased from Bofors.

Now, on that occasion, on April 20th, the Prime Minister made a statement in Parliament. And this is what he said—I quote:

> "I have informed the Prime Minister of Sweden that (1) the gun must be technically accepted and superior to all the others, (2) the cost must be less than other competitors', and (3) it must be guaranteed that there is no middleman or agency."

These are the three specific points the Prime Minister made. And I think the House is generally in agreement with that statement.

Now, I wish to refer to the debate that took place in the Rajya Sabha on

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August 10, 1987, when one of the members, referring to this statement of the Prime Minister, had the following to say—I quote:

> "....Our Prime Minister refuted the allegations of Swedish Radio with serene confidence and with great honesty. At that time he was with a lot of reasons to believe that there was no middleman....."

And then he goes on to say:

> "Sir, the direction of the Government and assurance from the Prime Minister of Sweden and the confirmation letter from the President of Bofors Company made our Prime Minister to refute the allegations of the Swedish Radio boldly, frankly and without any hesitation."

This is a Member of the House, an honourable Member, Madam. And that hon. Member does not sit on this side of the House. This statement was made by Shri Aladi Aruna. (*Interruptions*)

SHRI SURESH KALMADI (Maharashtra): What happened?

SHRI ALADI ARUNA *alias* V. ARUNACHALAM (Tamil Nadu): I have changed my mind after due inquiry. (*Interruptions*)

SHRI MURLIDHAR CHANDRAKANT BHANDARE (Maharashtra): I entirely agree with the hon. Member that he has every right to change his opinion after 25th of December 1987.

SHRI DIPEN GHOSH: He had said that without knowing it well. After going through the papers, he has changed his opinion.

THE MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI M. M. JACOB): Madam, Vincent Churchil crossed the floor from one side to another. When Members asked about it, he said: "Consistency is the virtue of an ass."

SHRI K. C. PANT: Madam, thereafter the Government took up this matter with Bofors and the Swedish Government. The letters have been placed on the Table of the House. I need not refer to them. Bofors denied the allegations. They said that the payments were legal. At that time, the Government took the initiative to pursue the matter with the Government of Sweden. This is a point which I would like to make. I made it last time also. But it gets forgotten in the din of the debate. It is our Government which insisted that the Government of Sweden must help us to get at the bottom of this whole Swedish Radio broadcast as to whether there was anything in it or not. They should let us know the truth. It is at the instance of the Government of India that the Swedish National Audit Bureau started conducting an inquiry. This inquiry was set up at the instance of the Government of India. No Government which has anything to hide would have gone to the extent of putting pressure on a foreign Government to conduct an inquiry into the facts in which the whole House was interested, in which the whole country was interested. It was not just a question of the Treasury Benches. I certainly do not think that the opposition members are any less patriotic than anybody sitting on this side of the House, no matter what your charges against us are. We told the Swedish Government and the Swedish Government obliged us by setting up this inquiry. Now, the inquiry report of the Swedish National Audit Bureau was received on the 4th of June, 1987. This established that payments had been made or payments of large sums of money had been made. This is where the next point came. They said that they could give us this fact of payment, but they could not give us the names of the recipients because of the secrecy requirements of the Swedish law. That is what the Swedish

Government said. Although we asked them again and again, the Swedish Government said: "No. This is our law and we cannot give you this information". That is why, at this point, we came almost to a dead halt. What did the Government of India do? I recount. The day we received the report and received this information with regard to the payments, a meeting of opposition leaders was called by the Prime Minister. They were taken into confidence. They were told: "Look, this is what we had told the Swedish Government with regard to direct negotiations. Now, we find that the payments have been made. Now that we have this information what should we do? What should be done in this matter?" This is the spirit in which this Government would like to conduct the business of Parliament, working together with the opposition leaders. This is a democracy which functions when both the wheels function smoothly, Government as well as the opposition. There has to be a certain minimum cooperation and coordination between the two. Outside this House, everybody knows that the objective of the opposition is to try to go to the Treasury Benches and, therefore, they must oppose. But there are limits which are set by democracy itself. There are limits which are set by decency. There are limits which are set by our need to preserve certain values and institutions in this country. And my submission, Madam, is that in this matter, the Government right from the beginning has acted with good faith towards the Opposition, and I shall just now demonstrate. But I am afraid that good faith has not been reciprocated fully. When the Leaders of Opposition met at that time, the question of JPC came up. On that very day, we gave to the press the information we had received from the Swedish National Audit Bureau. Yesterday, Atalji said, when we wanted JPC, you did not agree. Why did we not agree? It is because we felt there was no evidence, there was a radio broadcast, there was no evidence. The moment there was some evidence, some reliable evidence, then straightaway we said, yes, let a Joint Parliamentary Committee be appointed.

SHRI ATAL BIHARI VAJPAYEE: When was the time to take action?

SHRI K. C. PANT: This was the time to take action, when some reliable evidence came. After all, everyday newspapers and radio say so many things. My friend, Shri Upendra, must be getting worried when he sees photographs of NTR in the court. Now, do we take that seriously?

SHRI PARVATHANENI UPENDRA: You help us always like that. We are not worried. We are happy. (*Interruptions*)

SHRI K. C. PANT: I am not coming to a conclusion. I am merely pointing out that when such a thing appears in the newspaper....

SHRI PARVATHANENI UPENDRA: It is a part of the game.

SHRI K. C. PANT: ....we do not jump to conclusion. We never jump to conclusions. Therefore, it is for a court of law to come to a conclusion, not for us. I have great respect for NTR. And Shri Upendra knows it. I am not trying to score small debating points. What I am trying to say is that unless there is some reliable evidence, one does not immediately go to the extent of appointing a Joint Parliamentary Committee. That is the simple, small point I am making. And, I think, you will agree with me because we have different Governments in many of the States. Many of my friends have the experience of what newspapers write in their own States, including my friend sitting next to you. Therefore, let us be very careeful in these matters. So, this is the reason

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And I am sure that had Atalji been in the House at that time, he would have been with me in the matter of trying to persuade the Opposition to join the Joint Parliamentary Committee. It was the absence of that kind of leadership which ultimately let them down.

Madam, the decision to take up the JPC would normally have been enough. Government could have come to you and said, "we have appointed a Joint Parliamentary Committee. Now, we don't do anything further in the matter." We did not take that position. We took up the matter again with the Swedish Government. We said, "regardless of our Committee, we would still like you to do something more." And that is what led ultimately to the appointment of the Swedish Public Prosecutor. And it is the Swedish Public Prosecutor who now started conducting an enquiry in Sweden. And many hon. friends had great faith in him, had great hope in him. And they were looking to him for ultimate redemption. They did not believe in our own investigative agencies. But they had great faith in the Swedish Prosecutor. Well, I do not want to talk about those who went to the Swedish Embassy in a procession. It is their right and their freedom in this country to do so. If they choose to do so, the country comes to its own judgment about their mental attitudes. But I certainly am not going to blame them because it is something which really is slightly off the mark. It is something which does not meet the situation head on. You are trying to get from the Swedish Embassy an assurance that you can seek through the Government. The Government and you are one at that time, and there is no question of our being reluctant to ask the Swedish Government. You could have spared yourself the trouble. You could have spared the trouble of going all the way to Sweden. Mr. Jethmalani, ultimately, after his world trip, has come to the House. So, he should have spared himself the trouble. The others too could have spared themselves the trouble.

1.00 P.M.

SHRI RAM JETHMALANI (Karnataka): Are you happy or are you sorry?

SHRI K. C. PANT: I am quitt happy so long as you are quiet.

SHRI MURLIDHAR CHANDRAKANT BHANDARE: But his silence is very significant.

SHRI K. C. PANT: Now, Madam, those friends who went abroad, yesterday Atalji also referred to that, they could find nothing and they came back.

SHRI RAM JETHMALANI: That is not correct, Sir; I, at least could find papers regarding Ajitabh's property.

SHRI K. C. PANT: That is what I said, you are best when you are quiet.

So, Madam, the point that I want to make is that initially the opposition was making a strong point out of the Government's reluctance not to appoint or reluctance to appoint a Joint Parliamentary Committee. They were saying, please appoint a Joint Parliamentary Committee and they were insisting on this. And, now, when I think back then I begin to feel that we made a tactical mistake by saying that the Government is ready to appoint a Joint Parliamentary Committee. I think we gave notice to the opposition that we had nothing to hide, that we were interested in unearthing the truth and the moment we said that their enthusiasm for the Joint Parliamentary Committee vanished, it evaporated, because they were interested in embarrassing the Government, in making political capital out of this matter, and after a long wait they had found one issue on which the Government perhaps could be embarrassed. Now,

when the Government showed readiness, all right, let us appoint a Joint Parliamentary Committee, I think they got the wrong signal. If we had dragged our feet and not agreed to the appointment of the Joint Parliamentary Committee, I think they would have forced us to appoint a Joint Parliamentary Committee. I am sorry for that because I wanted them in the Joint Parliamentary Committee.

SHRI M. S. GURUPADASWAMY: You have forgotten all the discussion that we had. (*Interruptions*)

SHRI K. C. PANT: Let us for a moment go to that. Madam, what was the Central point on which some opposition leaders and the Government disagreed. The central point was that we stated that the Speaker should be there in certain cases, for instance, for going to Sweden, Speaker's permission is necessary, for calling Ministers to tender evidence, the Speaker's permission is necessary. In any case the Speaker is in charge of these Committees and anybody who knows the procedure and who has the experience will agree that the Speaker has got to be there. But I made an additional point, which is now going to come out very strongly, and if you are fair you will admit that it is a very strong point. When Shri Aladi Aruna could not get in his minute of dissent, he said or somebody else here on his behalf said that the Chairman of the Committee did not want to bring in his minute of dissent. I think that is what somebody said, but then he went to the Speaker and the Speaker directed that his minute of dissent be included in the report. To whom did he go? I made the point that the Speaker's supervision and presence there will be to the advantage of the minority always. The Speaker is there to protect the interests of the minority as well as the majority. That is why he is there. That is one of his functions and I made the point that it is wrong of you to make an issue of the Speaker's presence, and now I submit to you that if you are fair in the matter, from Shri Alabi Aruna's example, that it is the Speaker who ultimately came to the aid of the minority, so where is the question. So, today in hindsight if you say that this would have been a good thing, I will have some satisfaction of having persuaded you to this point of view because I do believe that any Joint Parliamentary Committee reflects the entire Parliament and in this case yesterday you had the motion by Vajpayeeji asking the Attorney-General to attend, who had given his statement before the JPC, had all the Members been represented, had all the parties been represented there and we were prepared to adjust the Members, to give a larger proportion to the opposition, then this need would not have arisen. They would all have been there to hear the Attorney-General then. I can do no better than to read again and quote from the speech of Shri Aladi Aruna on 10th.

SHRI RAM JETHMALANI: Is that your Bible?

SHRI K. C. PANT: I am sorry you are laughing at him; I am not laughing at him. I am very serious. This is what he said "I extend my support to the Government only because I do not doubt the *bonafides* of the Government." Please mark the words. "I do not suspect the honesty and integrity of the Government. I would like to remind the House that since Independence, this is the first Government which has decided to unearth black money deposited in Swiss banks." Not only at that time, it is a continuing process.

SHRI DIPEN GHOSH: Now he is realising the Himalayan blunder.

SHRI K. C. PANT: Tomorrow you will also realise your blunder. So, I was quoting from his speech. It says: "This is the first Government..." Please mark the words. Each word is worth it weight in gold. "This is the first Government which has decided

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to eliminate middlemen in arms deals. This is the first Government since Independence which has come forward to constitute a Parliamentary committee of this nature to probe a defence deal. Because of this unique feature, I extend my support." What a sensible thing!

SHRI DIPEN GHOSH: If General Sundarji could change the opinion, why can't he?

SHRI K. C. PANT: He goes on to say: "In the beginning, my colleagues from the Opposition were particular about constitution of a Parliamentary Committee. The Government was ready to set up a Commission of Inquiry but the Opposition was insisting on the appointment of a Parliamentary Committee". I am not saying it; your colleague is saying it. "Now, when the Government has come forward to set up a Parliamentary Committee, they are trying to run away from their responsibility of taking part in that Committee." Shri Gurupadaswamy has forgotten this; he remembers what we discussed outside, and not what was said in the House.

SHRI DIPEN GHOSH: Opinions change. General Sundarji also has changed his opinion.

SHRI K. C. PANT: The behaviour of my friend reminds me of the story of wolf and the lamb. I will not embarrass him further.

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): It is not a question of embarrassment.

SHRI DIPEN GHOSH: What you said when you were not in the Congress Party, is on record.

SHRI K. C. PANT: I did not change my opinion. But I was never with you ideological. I can never be with you.

SHRI DIPEN GHOSH: I have heard you criticising Mrs. Gandhi from here

SHRI K. C. PANT: I never criticised Mrs. Gandhi either. You go into all my speeches.... (*Interruptions*). Shri Gurupadaswamy was with me also on this side of the House. It is only you who cannot come here; all the rest can.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM (Tamil Nadu): Why do you expose everybody now?

SHRI K. C. PANT: One serious point I want to make to Atalji. It is seldom that the executive chooses to give some powers of its own to the legislature. In this case, Joint Parliamentary Committee was the first of its kind and an enquiry which should **normally have been conducted by** the Government, was given to this Joint Parliamentary Committee. It has been rightly pointed out by hon. Members. I had been a Member of this House. I had been a Member of the other House earlier also. All of us are interested to see that the powers of Parliament are expanded vis-a-vis the executive and the Opposition will be answerable to political history, particularly, in relation to Parliament when they are asked later 'You had the chance to expand the powers of the Legislature but you did not take that chance'. This is something which you will rue and regret in the days to come.

Madam, the Parliamentary Committee was set up in spite of the reluctance on the part of our friends to join it. The Committee commenced its task from September, 1987. I do not want to go into the details about the number of pages of testimony, number of witnesses and so on. This has been said in the House. But the point I wish to make is; I had given some assurances on the floor of the House at that time and said that we would give all the documents and that our officers are free to go and give evidence before the Committee. The report itself acknowledges that the Government has stood by its assurance. This is the point I wanted to make. Secondly, I had said that the services of the investigative agencies

of the Government would be made available to the Committee. They were made available. Thirdly, that the legal opinion of the Attorney-General would be made available and, as all of us know, this was available to the Committee.

Now, one point which was introduced into the terms of reference at the insistence of some friends from the opposition was in regard to the procedure followed in the selection of the gun. They specifically wanted it. I agreed. I said 'Yes; all right'. This was gone into by the JPC. Now, if I go into the procedure in detail, it will take a long time. Shri Arun Singh explained it in the House yesterday in great detail. It is a procedure which is institutionalised and which seeks to eliminate individual choices as far as possible. There are trials. There is a certain system. There is shortlisting; technical evaluation and then there is price negotiation. We have all gone into these aspects to some extent. How the QRs are made, how initially the need is felt, how the threat perceptions are conceived of how the armed forces respond to it, the whole process of procuring a certain number of guns so that competition is there and the right gun is ultimately chosen and selected. If I have to go into the whole process in detail, it will take a long time.

But one thing is clear. Madam the Chief of army Staff's role in this matter has been raised and, unfortunately, it has been raised in a manner which I cannot allow to go without some comment.

Shri Arun Singh referred to it. Other Members referred to it. Shri Arun Singh has already cleared the air. But I consider it my duty—since he is not here in the House; he is a distinguished soldier—to read out what he said. I would like you to carefully mark these words.

These are the words of a life-long soldier. You see the ring of these words. I quote:

> "...in the light of some of these changed circumstances, I re-evaluated the *inter-se* placemen t and decided that the Bofors gun in these conditions had an edge over the French gun though fundamentally both guns were acceptable for the Army. This was the sequence and I would like to repeat under oath, what I told the hon. Members when I briefed them in the Army Headquarters some months back."

Therefore, there is no question. He did not give some wishy-washy explanation. He said it clearly. He said it boldly. This was his comment. This would explain as to how this change took place.

SHRI RAM JETHMALANI: This is what Mr. Aruna did.

SHRI K. C. PANT: If you agree with what he said in the past and what he says now, you will become schizophrenic.

Madam, the point is, the Chief of Army Staff is an expert and we have to rely on him as Shri Arun Singh explained yesterday. And more than that, a soldier stakes his life behind the weapon he chooses and when the Chief of the Army Staff of a big country like ours selects it, should we distrust him? Whom do we trust then? Do we trust any one of us here? Do we trust anybody there? I can trust General Aurora. General Aurora has said that it is a good gun. Field Marshal Maneckshaw says that it is a good gun. These are the people whose opinion does count. But otherwise, naturally the Chief of the moment, it is his opinion which must count in these matters. I think there is no room for any kind of vacillation in this matter. It would be unfair to vacillate or to impute motives. Inuendoes are totally out of place here. I would beg of you not to make these small points because they have far reaching shadows. You may secure a small debating point, but what will be the impact of this point on our

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armed forces generally and on those who are accustomed to a certain disciplined way of functioning? That is what I would say and no more on this.

Madam, this point has been explained at some length about the radar capability, shoot and scoot capacity, burstfire capability. I will not go into all these matters, but I will only assure Atalji since he raised the point that this is a later development, this is not an ordinary radar, it is a computer-controlled radar and, therefore, it shall have to be met. I think he can take my word for it. More than my word, he can take the word of Chief of Army Staff.

About the price, again I think this has been gone into at some length and we were told how the prices of both the main contenders, the French and the Swedish, in the final package were reduced by about Rs. 200 crores. But the important thing is, on the date on which the letter of intent was given to Bofors they were almost Rs. 100 crores cheaper than their competitors. Now the negotiating committee consisted of four Secretaries to the Government. There was the Defence Secretary, there was the Additional Secretary (Finance), there was the Finance Advisor Defence Services (FADS). All these senior officers were there. I do not see how a hundred crore rupee difference they would have recommended other than they did from the point of view of price.

Then came the question of political level. After it came to the political level, there were two Ministers of State in the Defence Ministry, Shri Arun Singh and Shri Sukh Ram. They have seen this and signed the file. Then it has gone to the Finance Minister.

SHRI KALPNATH RAI (Uttar Pradesh): Who was the Finance Minister?

SHRI K. C. PANT: Everybody knows that. Shri V. P. Singh was the Finance Minister. That does not matter. He was the Finance Minister and he discharged his duty. That is perfectly all right, but I was telling the process that was adopted. He signed this particular file and then it went to the Defence Minister, who happened to be the Prime Minister at that time. The point I am making is that this recommendation was unanimous. There was no division and it was a unanimous recommendation. It was accepted by the Prime Minister. Now comes the question which was hinted at by Shri Chidambaram just now. Normally, when a letter of intent is issued negotiations are not carried after that. Normally that is what happens. But in this particular case the French were disturbed and they thought that they were now going to lose this particular contract, a big contract, there is no doubt about it. The French were interested, the Swedes were interested and so they gave their rock-bottom price and that rock-bottom price was rupees two to three crores cheaper than Bofors. Now it is quite possible, if the government had wanted to be soft to the Bofors, at that stage they would have said, "This offer has come very late. The letter of intent has already been issued." They could have said that. Technically speaking, Bofors gun has a distinct edge and, therefore, at that particular time it could be said that we are not prepared to take two-three crores into account, we have already given a letter of intent and we proceed accordingly. Had the Government wanted to be soft to Bofors, this is definitely the course of action that would have been adopted and in all fairness all my friends would agree with this, but the Government said, no. They again talked to the Bofors. The Bofors then said: "All right, we will give you ten..." I think ten is the number.... "guns free of cost", resulting in a further reduction of Rs. 10 crores. And I ask you, even if for the sake of record, one wanted to just say that there was a slight edge to Bofors

in the price matter, they could have reduced it by five crores and still have an edge of two crores, if the Government had wanted to be soft, had wanted to show latitude. But they reduced it by ten crores. It is at that stage that we finally settled this matter. Quite skilfully the negotiations were done and, I think, this is beyond dispute that no particular latitudes were shown to Bofors in this matter.

Two or three friends—I do not want to name them—had raised this issue and I thought I would make it quite clear how this was done. But, again, if you want to sum it up, I cannot do in such fine words. I shall read Shri Aladi Aruna again. This is what he said. I quote:

> "Above all due to the direct negotiations with Bofors company without middlemen in gun deal, India has benefited by Rs. 261 crores. The price of the total package was Rs. 1688 crores for 400 weapon systems. At the end of March, the contract was finally awarded for an amount of Rs. 1437 crores for 410 gun systems. The equivalent price of this package for 400 gun systems is Rs. 1427 crores. So, in the final phase of negotiations, we are benefited by Rs. 261 crores. This is a reduction of 15 per cent on actual price because of direct negotiations."

Then he goes on to say:

> Sir, the Bofors company in the memorandum of clarification has confessed that it has given only winding up amount. But at the same time, it has denied that there was no bribe, there was no commission. At the same time, it has confirmed that the company has not allowed anybody to influence the price of the contract.

So this is what Shri Aladi Aruna said at that time.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: I relied on your statement then. Now it has been proved that what you had stated earlier is wrong. I am sorry I withdraw it. I relied on you....

THE DEPUTY CHAIRMAN: Order please.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: I relied on what you had quoted in the Lok Sabha. Hereafter I will not rely on you.

SHRI K. C. PANT: The only point I will make to Shri Aladi Aruna is that a certain degree of moderation always pays and you have been very careful in your remarks. I see nothing objectionable in this at all. I am quoting it only because I think it was your honest opinion at that time.

SHRI PARVATHANENI UPENDRA: Is it now dishonest?

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: Now it is most honest.

SHRI K.C. PANT: Well, Madam, they are expert in degrees of honesty. I am not.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: We are not at all disputing your honesty.

SHRI K. C. PANT: Madam, competition brought down this price. Shri Atal Bihari Vajpayeeji said: यह चमत्कार हो गया है । कैसे दाम इतने गिर गए ।

I have explained how it happened. It was competition that brought down the price. This does not mean that the manufacturer sold at a loss. He made a profit. And now he paid the profit to various concerns. That is his concern. That is not our concern. So I will only wind up this point...

SHRI PARVATHANENI UPENDRA: You are "winding up"?

SHRI K. C. PANT: This point only. Don't worry, there are other points to come. The JPC said there was no flaw in the procedures and the gun was good, the price was good and so on. I think Shri Chidambaram just made the point that when the price is good and when the quality is good...

SHRI ALADI ARUNA alias V. ARUNACHALAM: You have not dealt with the point whether we have been benefited to the extent of Rs. 261 crores as claimed by you. Unfortunately I quoted the figure, no doubt, but the point is whether you are now proving that claim.

SHRI K. C. PANT: Far be it from me, Madam, to try to disprove what he has said. If he has said something, I take it as the truth.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: What I said yesterday... (*Interruptions*)...

SHRI K.C. PANT: He is the person to come to terms with himself, not I. You have to, somehow, come to terms with yourself. I do not want to add to your difficulties. I realize your problem... (Interruptions)...I have not lost hope, Madam. After the Tamil Nadu elections we may again come together, who knows?

SHRI DIPEN GHOSH: For that the price may be very high.

SHRI PARVATHANENI UPENDRA: What will you do with Jayalalitha?

SHRI DIPEN GHOSH: For ditching Jayalalitha and accepting Janaki, the price may be pery high... (*Interruptions*)...

SHRI K. C. PANT: I am now talking about a factual matter. Shri Aladi Aruna has been very active. He has been very vigorous and he has given a note of dissent which we should also take very seriously, to the extent it deserves. Now he has attributed qualities to the French gun which not even the French have claimed! At least for the record, they have not claimed it. At page 223 of the report, in his note he talks about its capability or travelling at a speed of 30 to 35 kilometres per hour on the strength of its APU. This is what he has said and he has used a very colourful phrase. In his anxiety to locate the "Germination of favouritism" he seems to have forgotten that this speed was claimed for the Austrian gun and not for the French gun. It makes a bit of difference! Likewise there are other points he has made. But I think I agree with my friend who said that one should not try to go too far in this because I understand and I realize his difficulties.

SHRI DIPEN GHOSH: You can teach him when he will be joining you.... (*Interruptions*)...

SHRI K. C. PANT: He is a friend of mine and I never derive any pleasure from embarrassing anybody. It is just that I have to set the record straight because he was very intemperate yesterday. Had he been temperate yesterday, then I would not have quoted him. At best I would have quoted one small piece. But he was so intemperate in his remarks. He said so many things which he should not have said, and if he goes back to the record he will see the difference between my treatment of his remarks and his treatment of the case as far as the Government is concerned. This is all I say; nothing more.

Madam, Atalji, whose background as a parliamentarian all of us respect, took some objection to the JPC commenting on the minute of dissent of Shri Aruna. I did not quite understand why he took objection to that because, if the JPC felt that the arguments advanced by Shri Aruna could not be sustained by facts as they saw them—everybody is entitled to his opinion—and if that is what the JPC felt, is it not proper that the JPC should have recorded its opinion? I see nothing wrong in that personally, and I was trying to think whether there was something which went against the norms of functioning of a Parliamentary Committee but I for one could not decide what it could be. I think it is perfectly legitimate.

AN HONOURABLE MEMBER: It is not unusual.

SHRI K. C. PANT: It is not more unusual than a Member of the Parliamentary Committee speaking in the House.

SHRI ALADI ARUNA *alias* V. ARUNACHALAM: The dissenting Member has a right to speak.

SHRI K. C. PANT: There are no rules on the matter.

SHRI LAL K. ADVANI (Madhya Pradesh): The Member who dissents has the right to speak.

SHRI K. C. PANT: The convention ordinarily is that they do not.

SHRI DIPEN GHOSH: The dissenting Member has the right to speak.

SHRI K. C. PANT: Who is denying the right? I am not saying that he has no right. I am not saying that there is any rule against it.

SHRI LAL K. ADVANI: We have not seen any other Parliamentary Committee which comments on a note of dissent. This is the first time in these 40 years.

SHRI K. C. PANT: This is the first parliamentary committee of the kind, Advaniji.

You see, when the constitution of this parliamentary committee was being discussed, at that time, many friends opposite, said, "We have the PAC, we have the Estimates Committee, we have the PUC. We work by consensus. Why do you distrust us? We trust each other's objectivity. And in this Committee also we shall work together to arrive at a decision." This was the spirit in which this whole discussion began. Therefore, I say, at that very particular point of time you were very keen to work together. I am still keen. But now this Committee is no more. So, the point I am making is, the convention in this case would apply as it would apply to the PAC, the PUC, the Estimates Committee, according to you, and in this case, ordinarily there is no minute of dissent. Ordinarily they come to a consensus. But if there is a minute of dissent I at least have no experience of anybody getting up in the House and expressing his views as opposed to the view of the majority as reflected in the Committee report. If I am wrong, I am subject to correction.

Now, turning to the question of payments, the facts are that the magnitude, has now been established, is 319 million SEK. The amount is larger than what had been indicated in the SNAB report. This higher figure was first established as a result of the Government's own efforts and subsequently acknowledged and reconfirmed by the JPC. It is important to note that had Government been interested in hiding the truth, this higher figure may not have emerged. The Government pressurised the Bofors representatives to give these figures. It was entirely the Government's own enxioty that established the fact that the payments made were more than one-and-a-half times the amount originally indicated by the Swedish National Audit Bureau

Again, the three companies were named by Bofors at our instance The true identities behind them are still not clear. That is what has been discussed since yesterday. The names of these companies were ferreted out by the Government, and then they were passed on to the Committee. So, in this matter also the Government has certainly taken the initiative.

Now, Madam, the JPC has established the fact of the actual size of these payments which was a part of the terms of reference. I agree that it has not succeeded in establishing precisely who are behind these companies. It has examined Bofors to try to establish who these persons were who received the payments and why they received them. That was a part of its charter It examined the Bofors representatives at great length. Bofors did not oblige. Then the investigative agencies were pressed into service. The investigative agencies of the Government of India also went and tried to follow up the available material and trace the people behind the companies. It is a well known fact that the laws of various countries permit the concealment of the identities of *de facto* owners of companies and bank accounts. It was discussed in relation to the Swiss Bank accounts yesterday But this is true of other banks also in many countries. The investigating agencies could not penetrate, this veil of secrecy. Indeed, they were advised on one occasion that the questions they were asking were illegal, and hence they would

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not get any answers. On a careful reading of the JPC Report it is quite evident that the investigating agencies did the best they could. They concluded that the companies were front companies registered in tax havens. On the material available to them, they could find no evidence of the involvement of any Indians. Then in that situation once the investigative agency came up with this answer, which was the source to which the JPC could have turned for an answer? There was only one source and that was Bofors. Therefore, they turned to Bofors. They again called them. The representatives of Bofors have uniformly and consistently taken the position that the payments were made to wind up the previous arrangements. Now, my friend, Mr. Chidambaram, has explained the legal implications. I am not a lawyer, but they say these winding-up payments were necessitated because of the conditions imposed by the Indian Government. This has been their consistent position right throughout. Then they say because there is commercial secrecy and they are obliged by that commercial secrecy, they cannot reveal to us the identity of the recipients. This is their case and no amount of persuation on the part either of the Government or the JPC could make them shift from this position.

SHRI V. GOPALSAMY (Tamil Nadu): Will the hon. Minister yield for a minute on this? Yesterday during my speech I demanded a specific clarification on this point. I wanted to know whether it was a fact or not that the top executives of the Bofors, when they came here in the year 1987, before they made their depositions in the Joint Parliamentary Committee he talks with the officials of the Defence Ministry for two days. In the talks did they disclose or not that one of the recipient companies was Pitco? I would like to know whether the message was given to the Defence Ministry officials or not.

SHRI K. C. PANT: The Defence officials certainly discussed with Bofors representative, all these matters. They had been in correspondence and they had been discussing and the three names which were given to the JPC were obtained by these officers. I might say and say it with some knowledge, not direct knowledge, because I was not present, but it was reported to me that they had used considerable pressure to make Bofors representatives to give names of three companies and later on the addresses and so on. It was not easy to get it from them. They first claimed commercial confidentiality. They took shelter behind that. It was only on the persistence of our officers and frankly holding out some threats to them that ltimately they gave these names and that was passed on to the JPC.

SHRI V. GOPALSAMY: That is why they changed the name from Pico-to moresco.

SHRI K. C. PANT: I don't Know. I am not here to defend Bofors. I am here to give you the facts as I know them. You asked me a question whether I know these things or not. (*Interruptions*) This is not quite fair, but than I don't always expect fairness from you.

The JPC then consulted the Attorney-General. He was asked: Are the Bofors entitled to commercial confidentiality? Can they claim commercial confidentiality? Can they take shelter behind commercial confidentiality? In brief, the answer was that they were entitled to the plea of commercial—confidentiality, commercial secrecy.

Then we also find that the prosecutor in Sweden had not found enough basis for bringing formal charges, because there was a parallel inquiry going on there. The Attorney-General was also asked whether there was any provision of Swedish law which could be resorted to obtain evidence or information by due legal process either from Bofors or from anybody else. After all this is the next step. You will appreciate that this question is a very important question. The Attorney General said that there were some provisions in the Swedish law applicable to, I quote, "proceedings before the Swedish courts or Swedish authorities. Indian courts or Indian authorities will not be able to resort to these provisions to compel either Bofors or any other person in Sweden to provide any evidence or

material, which may be required."

Again at page 184 the Attorney-General says and I quote:

"But there is no proper law by which the Committee may be able to compel the production of such information from those alleged commission agents." In response to another question by the Committee, the Attorney-General stated:

"Merely from the circumstances of Bofors having paid certain amounts to certain company, the inference that they were middlemen could not be drawn. Furthermore, Bofors could not be expected to prove the negative; and the onus of proving that the payment had been made to the middlemen would be on the JPC."

Finally, he was asked whether the contract could be cancelled and he said, I quote: "Certain persons are being implicated by rumours is not a good ground for terminating the contract. Law recognises only facts which are capable of proof before a court of law. The Committee is examining whether there is a legal proof that there was middleman. On the facts established the payments to certain companies are proved. All of us know this. They are saying during the evidence they made a mistake in not informing that they paid winding up charges." I certainly think that was a mistake and I think the whole House also will on that agree with Shri Arun Singh. "From this I am not able to see how inference can be drawn that they were middlemen related to the Bofors deal. We cannot presume that a person is admitting a guilt unless he has specifically admits it. When a person is giving defence you may treat it with suspicion but for indicating anyone there must be legal proof." I think the pith and substance of the matter can be found in the following words of the Attorney-General, I quote:

"There is no proof whether a middlemen was engaged or these payments were paid to the middleman. That is the end of the matter. It may be that they may have told a lie. So far as this controversy is concerned, there is no proof."

In otherwords, Madam, Bofors could not be compelled to disclose this particular thing and they were entitled to their confidentiality. That is the sum and substance of what the Attorney-General has said.

Now, Shri Gurupadaswamy yesterday suggested that perhaps the right course now would be having reached this point, to appoint a new Joint Parliamentary Committee with a Member from the Opposition as Chairman. Now, I refer him to Shri Vajpayee who said that even this Committee was unnecessary, why was it appointed? So, I personally think that JPC.....

SHRI DIPEN GHOSH: If he agrees, do you agree?

SHRI K. C. PANT: If he had agreed, then, I might have agreed now.

So the point I am making is that we have come to this particular pass. I quite agree. And the point whether agents were appointed, what payments were made, to whom, is exercising our mind. The facts are now all before us and the fact that this money was paid to three companies, the names of those three companies are known. Investigative agencies have brought out quite a number of facts and as Shri Arun Singh has said these facts have come out in the JPC report. But their identities are known only to Bofors. That identity nobody has been able to get from Bofors. This is the crux of the matter.

SHRI DIPEN GHOSH: As the money back from Bofors.

SHRI K. C. PANT: You think that you will get the identity that way?

SHRI DIPEN GHOSH: Not the question of identity.

SHRI K. C. PANT: That is a different suggestion.

But I am on the question of identity.. *(Interruptions)*.... The point that I am trying to tell you is that you must be quite objective in assessing the work of the JPC. What I am trying to tell you is that having

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reached a point where payments were established, where the names of the companies were known, where they were front companies apparently, which were established in tax-havens the question is, could, the JPC have gone further? And I have quoted at length from the Attorney-General's opinion. As I said, I am not a lawyer. He is the highest legal luminary in the land. The Government has to go by his advice. The President has to go by his advice. The Parliament goes by his advice. He has in a way set the limit beyond which the JPC could not go in the matter. He has explained why JPC could get the identities from Bofors unless it cooperated. He has explained at some length the legal issues involved. That is why it is absolutely necessary for us to understand the Attorney-General's views in the matter. After all, we are bound by the rule of law. Nobody has suggested that we twist the arms of Bofors or we treat them to third-degree methods and get the information out of them. We are a country, which believes in the rule of law and it is only through the rule of law that we are trying to get this information. So can the JPC: JPC can only operate under the rule of law. That is why it became necessary for me to dwell at some length on this point.

Now, the plea of Bofors is what I have explained earlier. I do not want to go into all the details because Shri Chidambaram has gone into these details at some length and being a lawyer, he could appreciate better than I can all the nuances of what has been said by the Attorney-General and the companies. So we may be dissatisfied with the Bofors company. I am not saying that we can be satisfied with this position. We would like to know and the Government has made no secret of it. and you have seen our letters that we have tabled in the Houses. All of you got copies of those letters. You have seen the questions we have posed. You have seen what we have written to Sweden and Bofors. There is no question of any softness in the matter. But if they think it is in their interest not to reveal certain things or they feel that confidential secrecy is important for them because of maybe other contracts they have it is for them to decide. I personally would be very happy if they gave us this information. I think, it is in their long-term commercial interest to give this information—I will go to that extent. But the fact of the matter is that because they did not give this information cannot be used to malign the JPC. The JPC was certainly restricted and could not go beyond the point to which it went. That is why I feel that JPC deserves our thanks and deserves thanks of both Houses and the country for what it has done to bring out the facts as it did.

Now, I have not gone into one aspect because that has already been dealt with, i.e., the cancellation of the contract. But if any of my friends is interested, I can certainly go into that aspect of the matter with them separately. But on this occasion I do not want to take time of the House. There are implications. Shri Arun Singh has dealt with it. So it is better....

SHRI V. GOPALSAMY: Before you conclude, will you kindly clarify one point?

SHRI K. C. PANT: I have been watching the clock and I think, it is time I came to a conclusion.

SHRI DIPEN GHOSH: Please deal with the other aspect what you have stated.

SHRI K. C. PANT: Now, one point which I submit with all respect to you is we can take whatever view we like in this matter. We can examine all the suggestions that have been

made. But I would beg of you not to jump to any hasty conclusions and the reason for that apart from legal and technical reasons which we had gone into, have one other dimension which I think Atalji will appreciate and other Members will also appreciate. We have a special relationship with Sweden. Sweden is a friendly country. Sweden has helped us in many areas. The six-nation initiative in the matter of nuclear disarmament....

SHRI DIPEN GHOSH: That is why that country could help more.

SHRI K. C. PANT: You say that if Sweden is not, I will accept it.

SHRI DIPEN GHOSH: That country could help you more to locate them.

SHRI K. C. PANT: When a serious debate is going on, if it is your conclusion that Sweden cannot get this information for us....

SHRI DIPEN GHOSH: No, no.

SHRI K. C. PANT: What is, no, no?

SHRI DIPEN GHOSH: If Sweden is a great country and friendly country they could help you to locate those recipients.... (*Interruptions*) .. Did you avail of that thing?

SHRI K. C. PANT: If after 1½ hours I have not been able to convince you that we have done our best to get the Swedish Government to get this information for us, speaking for another 3½ hours will make no difference.

SHRI DIPEN GHOSH: Mr. Minister: Are you prepared to ask the Swedish Government to force Bofors to pay back Rs. 64 crores?

THE DEPUTY CHAIRMAN: Please sit down.... (*Interruptions*) .. .

SHRI V. GOPALSAMY: Mr. Minister, yesterday, you said....

THE DEPUTY CHAIRMAN: Mr. Gopalsamy, I am not allowing. Let him complete first.

SHRI V. GOPALSAMY: Mr. Minister, will you yield for a minute?

THE DEPUTY CHAIRMAN: Please sit down.

SHRI K. C. PANT: Madam..... (*Interruptions*).

SHRI V. GOPALSAMY: A small clarification. Please permit me. (*Interruption*)....after the legal position. (*Interruptions*) Will you take up the issue with the Swedish Government? (*Interruptions*)

SHRI K. C. PANT: Madam, I.... (*Interruptions*).

THE DEPUTY CHAIRMAN: Mr. Gopalsamy, please sit down. I have not permitted you. Please, sit down now.

SHRI K. C. PANT: I would only like to make one point here about the Swedish Government because these are serious matters. I have not dwelt on the contract aspect. I could have spoken in terms of security, in terms of legal aspects, in terms of financial implications and, from the point of view of security, what the delay would cause. I could have done that. But, again, it would be a long speech. I do not want to go into these things. That is why I said that since many of my friends have covered these aspects, I will not do them again. I came to another aspect that it was the Swedish Government which agreed to the supply of the weapon systems to us and agreed to maintain uninterrupted supply except in the event of a United Nations embargo. Those friends who have been following these aspects closely know that even within Sweden there is some discussion on this aspect as to why they let us have these weapons under these

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terms. These are aspects which also have to be kept in mind and a long-term view has to be taken of any particular decision that we take at this point of time.

Now, Madam, I must confess that those Members who have cast innuendoes on the Government have been less than fair to us. And Shri Aladi Aruna has said many things which I am not going to mention here. But one thing he said, I thought, was extremely unfair and that is, he charged the Defence Ministry with having misled the Committee. This seems to me to be highly unfair. The Committee had all the obcuments. The witnesses appeared befor it. It also had the same material. Now, if Shri Aruna had different material on the basis of which he has come to the conclusion that the Defence Ministry has misled—'misled' is a very strong word—the Committee deliberately, then he should have placed that material on record. Even in his minute of dissent he should have said, "I have the following facts which are at variance with the facts which have been produced by the Defence Ministry." It could not be at variance because they are facts on record. Therefore, if he does not have those facts and still makes a charge like this and says that the Defence Ministry is misleading the Committee, I think there could be nothing more unfair than this. I would like him to think over this matter. If he has facts and he has not furnished them, then it is for him to answer as to why he has not furnished them. Even before the House he spoke. He could have furnished those facts. (*Interruptions*).. This is the only small point which I wanted to make. I strongly refute the charge that the Defence Ministry has tried to mislead the Committee.

The final point is, Madam, that today there are many national issues which must be disturbing the minds of my friends opposite. They are national issues which do not permit any of us to be complacent and it applies to the security environment to the defence sector. We have seen in the newspapers today. I do not want to take shelter behind that because this matter must be considered on its own merits. I do not want to confuse it with larger security considerations because I do not want to be charged with concealing the merits of this debate under the cover of national security. But I beg of you, once this debate is behind us, let us devote our attention to the more burning issues that face us today. Some of these issues will require all our energy and all our cooperation to face them effectively and it is to that.... (*Interruptions*),

SHRI PARVATHANENI UPENDRA: How do you close this?

SHRI K. C. PANT: This matter has been gone into by the JPC. It has given its report. It has reached its conclusions. You have made your comments. I have answered the debate. This is where the matter rests now. As I have told you, the Government looks at these matters always with an open mind. But you cannot ask the Government to react to every little sentence here and there...

SHRI PARVATHANENI UPENDRA: After the Committee's report, new evidence has come.

SHRI K. C. PANT: Madam, I have spoken at length. My advise to my honourable friends would be...

SHRI DIPEN GHOSH: I am agreeable to accept your advise but...

SHRI K. C. PANT: Then you sit down.

SHRI DIPEN GHOSH: Will you please yield for a second?

SHRI K. C. PANT: No, I will not yield. I have taken a long time. Madam, I have done my level best to clarify the points...

SHRI DIPEN GHOSH: Madam....

THE DEPUTY CHAIRMAN: No, not now. I will give you a chance after the Minister's reply.

SHRI DIPEN GHOSH:*

THE DEPUTY CHAIRMAN: No; I have not allowed you. That will not go on record.

SHRI DIPEN GHOSH: Why not?

THE DEPUTY CHAIRMAN: Because I have not permitted you to interrupt. You have not taken my permission.

SHRI DIPEN GHOSH:*

THE DEPUTY CHAIRMAN: No, no. We cannot start the debate afresh.

SHRI RAM JETHMALANI: Madam, I would also like to seek a couple of clarifications.

THE DEPUTY CHAIRMAN: No, no.

(Interruptions)

SHRI RAM JETHMALANI: I politely get up to ask your permission.

THE DEPUTY CHAIRMAN: You have asked for permission politely. I politely say I cannot give it to you because we cannot start a fresh debate.

SHRI RAM JETHMALANI: Why?

THE DEPUTY CHAIRMAN: Because the debate has ended now. There is an end to everything.

Mr. Minister, you may please conclude now.

SHRI K. C. PANT: This has been a long debate. Several times it has come up here and at the end of this long debate and the churning that has gone on for over one year in this matter, the house of suspicion which has been built by the friends opposite has crumbled...

SHRI PARVATHANENI UPENDRA: How? Who is responsible?

SHRI K. C. PANT: The only thing that is not known, that all of us feel, is that the ultimate recipients are not known...

SHRI PARVATHANENI UPENDRA: That is the main question.

SHRI K. C. PANT: But there we have invited them to work together in the JPC so that we could try to identify them, but they refused and today I don't think they have a moral right to question either the procedure or the conclusion of the JPC...

SHRI PARVATHANENI UPENDRA: Principally it is your job to find out.

SHRI K. C. PANT: Isn't it your duty to cooperate with the Government in such matters?

SHRI PARVATHANENI UPENDRA: No, no.

SHRI K. C. PANT: Therefore, I hope that we have now put this matter behind us and we shall cooperate in a more constructive spirit in future. Thank you.

SHRI DIPEN GHOSH: Madam,...

THE DEPUTY CHAIRMAN: Please be very brief.

SHRI DIPEN GHOSH: Madam, I am glad that you have allowed me to seek certain clarifications from the Minister of Defence...

THE DEPUTY CHAIRMAN: You don't start a fresh debate now.

SHRI DIPEN GHOSH: I shall be very brief. First of all,...

SHRI RAM JETHMALANI: Please give me also a minute.

THE DEPUTY CHAIRMAN: We cannot have a fresh debate now.

SHRI DIPEN GHOSH: I am on my legs with your permission.

2.00 P.M.

SHRI RAM JETHMALANI: Madam, you have to allow me also... *(Interruptions)*.

*Not recorded.

THE DEPUTY CHAIRMAN: No, please... *(Interruptions)*...

SHRI M. S. GURUPADASWAMY: You have to allow me also... *(Interruptions)*...

THE DEPUTY CHAIRMAN: No, please... *(Interruptions)*...

SHRI M. S. GURUPADASWAMY: Why not?... *(Interruptions)*...

SHRI RAM JETHMALANI: Why not?... *(Interruptions)*...

SHRI M. S. GURUPADASWAMY: Why not? I am also a Member of this House.... *(Interruptions)*... we are also Members of this House... (Interruptions)... We want to seek clarifications only and nothing else. Why don't you allow us? *(Interruptions)*....

SHRI PARVATHANENI UPENDRA: Please allow us... *(Interruptions)*...

THE DEPUTY CHAIRMAN: Mr. Dipen Ghosh you are not starting at all... *(Interruptions)*...

SHRI DIPEN GHOSH: What can I do?... *(Interruptions)*...

THE DEPUTY CHAIRMAN: All right. I adjourn the House now. The House is adjourned for lunch till 3-00 P.M.

The House then adjourned for lunch at one minute past two of the clock.

3.00 P.M.

The House reassembled after lunch at two minutes past three of the clock, The Vice-Chairman (Shri Jagesh Desai) in the Chair

THE CODE OF CRIMINAL PROCEDURE (SECOND AMENDMENT) BILL, 1988

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. CHIDAMBARAM) Sir, I beg to move:

"That the Bill further to amend the Code of Criminal Procedure, 1973, be taken into consideration."

In cases of corruption, particularly those attending large deals involving foreign parties, as well as economic offences, allegations are generally made that money illegally obtained is deposited in foreign Banks by offenders. For successful investigation and prosecution of such cases, the cooperation from foreign governments, where the offenders or witnesses reside, becomes necessary. The Government of India have been seriously contemplating entering into agreement with foreign Governments, including the Government of Switzerland for mutual assistance in criminal matters.

Agreements with foreign countries in regard to mutual assistance in criminal matters are entered into on the basis of reciprocity. Mutual assistance in criminal matters requires cooperation with the law enforcement agencies in foreign countries in regard to locating witnesses, obtaining information from persons who are under investigation and investigation of crime not involving the exercise of any measure to compet any person to answer any question, etc. This is secured by the provisions of the agreement entered into with the foreign Government concerned. In regard to taking of evidence or production of documents using compulsory measures for the purpose of criminal proceedings, the criminal law of both the contracting countries must, however, contain appropriate provisions.

There are already provisions in sub-section (3) of Section 285 and clause (b) of sub-section (2) of section 290 of the Cr.P.C. which incorporate the principle of reciprocity in regard to taking of evidence of witnesses on commission in India and in a foreign country. However, section 105 of the Cr.P.C., which provides for reciprocal arrangements in regard to issue of processes, does not at present enable a court in India to issue summons or warrant to be served or executed outside India, or *vice-versa*. It has been considered necessary to amend this section to